

Proceedings
Lower Fremont River Distribution System Annual Meeting
April 3, 1972 2:00 p.m. Wayne County Courthouse, Loa

The annual meeting of the water users of the Lower Fremont River Distribution System was held in the Wayne County Courthouse, Loa, Utah at 2:00 p.m. on April 3, 1972. Judge Ferdinand Erickson chaired the meeting. The following persons, representing the indicated organizations were in attendance:

Ferdinand Erickson, Judge - District Court
Hubert C. Lambert, State Engineer
Kenward H. McKinney, Area Engineer - Division of Water Rights
Glen P. Johnson, President - Hanksville Canal Company
Glenn Whitby - Hanksville Canal Company
Steven A. Black, President - Caineville Canal Company
Boyd Black - Boyd Black Rights
Talmage Jensen - Talmage Jensen Rights
Deloyd Curtis, President - Torrey Irrigation Company
Larry Bagley - Wes Chadburn Rights
Grant Chappell, River Commissioner
L. Claire Okerlund - Road Creek Water Users
John L. Trayner - Utah Power & Light Company
Bert Speed - Capitol Reef National Park
Don W. Pace, Secretary - Torrey Irrigation Company
Spencer Rees - Road Creek Water Users
Melvin Okerlund, President - Road Creek Water Users

Judge Erickson indicated that there were several items of business carried forward from the preceding annual meeting, which should be brought up for review. The first matter was the apparent problems between the Park Service at Capitol Reef National Park and Claire Bird of the Capitol Reef Lodge. Claire Bird and the Park Service in years past had shared the use of a ditch. There had been maintenance problems on the ditch and controversy between Mr. Bird and the Park Service arose over maintenance and cleaning of the ditch. The Park Service changed their method of operation and their water use practices. As a result of these changes, they found it no longer necessary to divert water at this ditch. They, therefore felt no obligation to clean or maintain the ditch. Mr. Bird contended that the Park Service should continue to maintain the ditch. The Park Service said no, but that Mr. Bird was free to use the ditch and to clean and maintain it, so long as he abided by Park Service regulations governing such work. Mr. McKinney indicated that this was the situation to date and during the past year. There had been no complaints from either the Park Service or Mr. Bird to the Division of Water Rights Area Office in Price during 1971.

The second matter carried forward was the apparent controversy between Boyd Black and the Torrey Irrigation Company over certain changes proposed by Mr. Black. Mr. Black filed with the State Engineer Change

Application No. a-6572 (95-531), proposing to change the point of diversion and place of use of 3.0 sec.-ft. of water. The change involved joint use of a portion of the Torrey Irrigation Company Canal not now jointly used. Mr. McKinney indicated that, after due consideration and investigation, it would be recommended to the State Engineer to approve the Change Application. The Torrey Irrigation Company protested such action and indicated that they would resist any efforts to move any of this water through their canal. Judge Erickson indicated that such right-of-way and/or conveyance rights as were necessary could be obtained by condemnation as provided for in the statutes. The increase of canal capacity was an engineering problem. Mr. Black indicated he would take care of any necessary enlargement but he did not feel obligated to improve the ditch other than such cleaning or enlargement necessary to increase the capacity to handle the additional water. There were differences of opinion between Mr. Black and the Irrigation Company as to what would be enlargement and what would be improvement. Judge Erickson asked questions concerning engineering costs. Would the initial engineering costs be jointly shared or be borne by Mr. Black? If Mr. Black paid then he would more or less have control. If the initial engineering costs were shared, both Mr. Black and the Irrigation Company would have some control. The president of the Irrigation Company indicated he was not prepared at this time to make any commitments on this matter. Mr. Lambert suggested that the State Engineer should act upon the Change and then if the application were approved, the party or parties concerned could engage an engineer to make a determination of the necessary work and cost of any necessary enlargement. Mr. Black indicated that he was a joint owner in the initial reach of the Torrey Canal but that the irrigation company never notified him when they were going to shut down the canal for maintenance work. Mr. Black indicated that such notice was necessary in order that he could plan his irrigation and work. The allegation that such notice was not given was confirmed by the Torrey Irrigation Company. The Torrey Irrigation Company indicated that they questioned the validity of and/or title to the Diligence Claim upon which a portion of the water right being changed by Mr. Black was based. No evidence to support this question of invalidness of the Diligence Claim was offered by the Torrey Irrigation Company.

Judge Erickson then asked if the matter of the high water filings of the Hanksville Canal Company and Caineville Canal Company had been resolved. Mr. McKinney indicated that these filings had been approved.

The judge then asked if the apparent problems between Christensen's Sandy Ranch and the Durfey interests at Notom had been resolved. It was reported by the Commissioner, Mr. Chappell, that John Christensen, who had questioned certain water measurement practices of Durfey's, no longer represented Christensen Ranches. Durfeys diverted the water at two places from the creek. They measured the water into their ditch at an upper point of diversion, irrigated with it and returned it to the natural channel of the creek and diverted it again from the creek at

a lower point of diversion. It was measured at the upper point of diversion but not at the lower. Mr. Christensen had indicated that the water should be measured at both points of diversion and the total charged against Durfey's right. Division of Water Rights representatives pointed out that if the water was returned to the natural channel and then again diverted, it would be necessary to measure the water at the lower point of diversion and to charge the total of the upper and lower diversions against the water right.

Judge Erickson then read the financial statement. The financial statement indicated that the Balance of Distribution Trust Funds on December 31, 1971 was \$885.37. There were no delinquencies. The assessment for 1972 was then discussed. Mr. Lambert suggested that the 1972 assessment be set at \$2400 and that the budget remain the same, except for adjustments to Items 3, 5 & 7 which will be necessary because of changing costs. Glen P. Johnson, Hanksville Canal Company asked how mileage payment to the commissioner was made. It was explained that the mileage traveled by the commissioner was multiplied by the rate paid/mile. This amount was paid to the commissioner from the trust fund. No attempt was made to pro-rate the mileage so that each user would pay for the mileage run on his reach of the system. The accounting and assessing problems if the mileage were pro-rated on a mileage basis would be quite difficult. Judge Erickson indicated that if there were no objections, the Budget and Assessment would be adopted as suggested. There were no objections.

The judge then asked if there were any items which had not been covered. Larry Bagley, who was leasing A water rights owned by Wes Chadburn, indicated that he wished to take 1.0 sec.-ft. of the 2+ sec.-ft. of A water owned by Mr. Chadburn, back up in the Garkane Ditch. The water had apparently been used previously on land served by the Garkane ditch, but for the last few years had been used on another portion of the land, from another diversion. Mr. McKinney and Mr. Chappell would investigate the matter and report back concerning their findings.

Another matter of business concerned Road Creek Water Users. They had previously indicated that they wished to have a commissioner appointed to oversee the distribution of water on Road Creek. It was discussed with Judge Erickson and he indicated that Road Creek should be included in the Lower Fremont system rather than be created as a new and separate system. The three persons from the Road Creek users present indicated that the Road Creek users, as a group, were still desirous of having the services of a commissioner. The method of handling the budget and assessment on this portion of the system was then discussed. Since there was no record of operation for this portion of the system and since the commissioner had no idea of what amount of work was involved it was decided to operate the Road Creek portion of the system semi-autonomously in 1972.

The commissioner would go over the system with the users and at a meeting, tentatively set for April 15, 1972 the assessment and budget would be set.

Grant Chappell, the present river commissioner was the only applicant for river commissioner. He indicated that he would take the position at the same salary and under the same conditions that he had during the previous year. Judge Erickson indicated that Mr. Chappell was to be the commissioner for 1972.

Mr. Chappell then read the 1971 commissioner's report. Following this, the judge indicated that this was the last annual meeting he would preside over since he would retire prior to the 1973 meeting scheduled on the first Monday in April 1973. The meeting was adjourned at 3:35 p.m.